

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on February 6, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 200 - 1-30-01**
HB 361 - 1-31-01
HB 393 - 1-31-01

HB 434 - 2-01-01

Executive Action: HB 233 - Table
HB 359 - DP
HB 393 - DP

HEARING ON HB 200

Sponsor: Rep. Bob Davies, HD 27, Bozeman. An Act submitting to the qualified electors of Montana an amendment to Article III, Section 1, of the Montana Constitution to provide that a Montana Supreme Court decision that is based wholly on state constitutional grounds or for which state constitutional grounds are necessary to the decision is overturned if 60 percent of the members of each House of the Legislature vote to overturn the decision at both of the two regular Sessions of the Legislature that follow the decision. **EXHIBIT**(juh30a01)

Proponents: Harris Himes, Attorney, Hamilton

Dallas Erickson, Montana Citizens for Decency Through
Law.

Mark Durling, Hamilton

Pastor Greg Lampton, Florence

Pastor Hollis Poe, Hamilton

Shannon Bennett, Hamilton

Jeannie Poe, Hamilton

Opponents: Al Smith, Montana Trial Lawyers Association

{Tape : 1; Side : A; Approx. Time Counter : 0 - 27.8}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 2.5}

Don Judge, Montana AFL-CIO

Verner Bertelsen, Montana Senior Citizens Association

Jon Metropoulos, Attorney, State Bar of Montana

Pam Bucy, Assistant Attorney General on behalf of
Attorney General, Mike McGrath.

Scott Crichton, Executive Director, ACLU, Billings

Jacqueline Lenmark, State Bar of Montana, Montana
Coalition for Privacy and Free Expression and American Insurance
Association.

Questions from Committee Members and Responses: Reps. Gallus,
Harris, Laszloffy, Newman, Clark, Peterson, Rice, Mangan, Eggers,
Shockley to Mr. Himes, Rep. Davies, Mr. Smith for further
explanation and clarification.

{Tape : 1; Side : B; Approx. Time Counter : 2.5 - 29.4}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 19.1}

Closing by Sponsor: Rep. Davies closed the Hearing on HB 200.

{Tape : 2; Side : A; Approx. Time Counter : 19.1 - 25.9}

HEARING ON HB 361

Sponsor: Rep. Bill Thomas, HD 93, Hobson said this Bill addresses
a shortfall in the statutes. Under the present indecent exposure
statute, in order to obtain a conviction it must be proven that
the offensive action was committed to harass, intimidate,
confront or elicit sexual gratification of either the perpetrator
or the victim. A number of incidents precipitated this Bill. He
cited several instances.

{Tape : 2; Side : A; Approx. Time Counter : 25.9 - 29.3}

Proponents: Dallas Erickson, Montana Citizens for Decency Through
Law. EXHIBIT(juh30a02) EXHIBIT(juh30a03) EXHIBIT(juh30a04)
EXHIBIT(juh30a05) EXHIBIT(juh30a06) EXHIBIT(juh30a07)
EXHIBIT(juh30a08)

Becky Waldum, Read testimony from former prostitute.

Mark Durling, Hamilton, EXHIBIT(juh30a09)

Pastor Greg Lampton, Florence

Jeff Waldum, Livingston, EXHIBIT(juh30a10)
EXHIBIT(juh30a11)

Julie Millam, Executive Director, Montana Christian
Coalition

Harris Himes, Hamilton EXHIBIT(juh30a12)

Pastor Hollis Poe, Corvallis, **EXHIBIT**(juh30a13)
EXHIBIT(juh30a14)
EXHIBIT(juh30a15) **EXHIBIT**(juh30a16)

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.4}
{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 2.5}

Jeannie Poe, Corvallis, **EXHIBIT**(juh30a17)

Shannon Bennett, Hamilton, **EXHIBIT**(juh30a18)
EXHIBIT(juh30a19)
EXHIBIT(juh30a20)

Opponents: Melvyn Beattie, Helena, Self **EXHIBIT**(juh30a21)

Scott Crichton, Executive Director, ACLU of Montana.
EXHIBIT(juh30a22)

Jacqueline Lenmark, The Montana Coalition for
Privacy and Free Expression. **EXHIBIT**(juh30a23)

{Tape : 3; Side : A; Approx. Time Counter : 2.5 - 18.4}

EXHIBIT(juh30a24) given to Secretary after meeting.

Questions from Committee Members and Responses: Reps. Adams,
Gutsche, Peterson, Harris, Hurdle, Clark to Mr. Erickson, Rep.
Thomas, Mr. Himes.

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 9.2}

Closing by Sponsor: Rep. Thomas closed the Hearing on HB 361 by
saying there are some individuals in society who are not capable
of being accountable for their actions. This law would help them
and society in providing a means for their apprehension and
follow-up care, if needed. Children of all ages are
impressionable whether or not they are accompanied by their
parents or another responsible adult. There is a common sense
solution to a problem that would make our cities and our state a
little better place in which to live.

{Tape : 3; Side : B; Approx. Time Counter : 9.2 - 13.2}

HEARING ON HB 434

Sponsor: Rep. Clarice Schrumpf, HD 12, Billings would add to
Section 46-23-507 by declaring that people convicted of sexual
offenses may not knowingly or negligently reside, during their

period of probation or parole within 150 of a private or public elementary high school, preschool, licensed day-care center, church or park. **EXHIBIT**(juh30a25)

Proponents: Rodney Garcia, Chairman, Southside Neighborhood Task Force, Billings

Julie Millam, Christian Coalition of Montana

Harris Himes, Self, Hamilton

Dallas Erickson, Montana Citizens for Decency Through Law, Stevensville.

Pastor Hollis Poe, Corvallis

Shannon Bennett, Hamilton

Mark Durling, Hamilton

Jeannie Poe, Hamilton

Opponents: Scott Crichton, Executive Director, ACLU, Billings
EXHIBIT(juh30a26)

{Tape : 3; Side : B; Approx. Time Counter : 13.2 - 30.1}

Pastor Greg Lampton, Florence

Questions from Committee Members and Responses: Reps. Clark, Newman, Mangan, Curtiss, Eggers, Harris, Adams, Hurdle to Rep. Schrumpf, Mr. Crichton, Pastor Lampton, Mr. Garcia.

Closing by Sponsor: Rep. Schrumpf closed the Hearing on HB 434.

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 24.4}

HEARING ON HB 393

Sponsor: Rep. Jeff Mangan, HD 45, Great Falls said this Bill is an Act allowing a Probable Cause Hearing for a youth taken into custody for questioning by video conference. The hearing may be held in person or by video conference. The audio-video tape is appropriate if the hearing is held by video conference. The judges are already experienced in this format.

Proponents: Deb Kottel, Commissioner, Cascade County and the Cascade Regional Youth Detention Facility.

Sam Harris, Justice of the Peace, Cascade County.

{Tape : 4; Side : A; Approx. Time Counter : 24.4 - 29.5}

John Parker, Deputy Cascade County Attorney, Great Falls

Charles Brooks, Billings, Yellowstone County Commissioners and Montana Association of Counties, (MACO).

Mike Murray, Commissioner, Lewis and Clark County.

Rep. Brad Newman, HD 38, Butte representing Marko Lucich.

Opponents: None

Questions from Committee Members and Responses: None

Closing by Sponsor: Rep. Mangan closed the Hearing on HB 393.

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 10.1}

EXHIBIT (juh30a27) given to Committee by Rep. Gallik.

EXECUTIVE ACTION ON HB 233

Motion: REP. NEWMAN moved that HB 233 DO PASS. #1

Discussion: Reps. Peterson, Newman.

Motion: REP. NEWMAN moved a conceptual amendment. #2

Discussion: Reps. Newman, Peterson, Noennig, Mangan, Hurdle, Holden.

{Tape : 4; Side : B; Approx. Time Counter : 10.1 - 29.5}

Vote: Newman amendment #2 carried 17-3 with Reps. Shockley, Peterson and Rice voting no.

Discussion: Reps. Mangan, Hurdle, Younkin.

Motion/Vote: REP. YOUNKIN moved that HB 233 BE TABLED. #3 Motion carried 11-9 with Reps. Clark, Eggers, Gallus, Gutsche, Harris, Hurdle, Mangan, Newman, Noennig voting no.

EXECUTIVE ACTION ON HB 393

Motion/Vote: REP. MANGAN moved that HB 393 DO PASS. #4 Motion carried unanimously 20-0.

EXECUTIVE ACTION ON HB 359

Motion: REP. CLARK moved that HB 359 DO PASS. #5

Discussion: Rep. Clark explained the fiscal note.

Vote: Motion carried on HB 359 unanimously 20-0.

{Tape : 5; Side : A; Approx. Time Counter : 0.1 - 18.1}

ADJOURNMENT

Adjournment: 12:25 P.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh30aad)